

STATE OF VERMONT
PUBLIC SERVICE BOARD

Dig Safe Notice No. 633

In Re: FairPoint Communications, Alleged Violation of)
August 1, 2009, as reported by FairPoint)
Communications)

Order entered: 4/7/2011

ORDER RE: NOTICE OF PROBABLE VIOLATION

Background

1. Pursuant to 30 V.S.A. § 7001 et. seq., and Vermont Public Service Board Rule 3.800, the Vermont Department of Public Service ("Department") issued a Notice of Probable Violation of Underground Utility Damage Prevention System ("NOPV") to FairPoint Communications ("Respondent").
2. Incident Date: August 1, 2009
3. Incident Location: 125 Reynolds Road, Grand Isle, VT
4. Name and Address of Company that Reported the Incident to the Department: FairPoint Communications, 800 Hinesburg Road, South Burlington, VT 05403
5. Date Incident Reported to Effected Utility: August 4, 2009
6. Date NOPV issued by Department: September 25, 2009 (#1665)
7. Department's Statement of Evidence Supporting the Alleged Violation: "The Department of Public Service investigated this incident and determined the following details. On 7/16/09, Fairpoint made a notice of excavation activities to install a new pole to Dig Safe System, Inc. Fairpoint did not accurately locate and mark its underground facilities, in the area of the proposed excavation. During the course of the excavation an inaccurately marked Fairpoint 100 pair cable was struck and damaged. This caused a service outage for between 20 to 30 subscribers for 2 hours. Fairpoint was immediately notified of the damaged facility. The Department of Public Service issued 5 Notices of Probable Violation (NOPV's) to FairPoint Communications during the 12 months preceding this incident."
8. Statute, Rule, Regulation or Order Allegedly violated: 30 V.S.A. § 7006

9. The Department's Recommended Remedial Action(s) (Including Civil Penalties): Civil penalty in the amount of One Thousand Two Hundred Dollars (\$1,200.00).
10. The Respondent has agreed to take the remedial action(s) recommended by the Department.¹

Conclusion and Order

Because the Respondent has not contested the NOPV, or the allegations therein, we conclude that the remedial action proposed in the NOPV is appropriate, and should be imposed.²

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

Within thirty days of the date of this Order, Telephone Operating Company of Vermont LLC, d/b/a FairPoint Communications, shall pay a civil penalty in the amount of One Thousand Two Hundred Dollars (\$1,200.00) by submitting to the Public Service Board a check in that amount made payable to the State of Vermont, and sent to the Public Service Board at 112 State Street, Montpelier, VT 05620-2701.

1. *See*, Respondent's filing of 10/20/09.

2. *See*, Public Service Board Rule 3.807(G).

Dated at Montpelier, Vermont, this 7th day of April, 2011.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: April 7, 2011

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.